Decision No. 22010

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

To the Metter of the Application of

Appli cation

No.17540

In the Matter of the Application of A. M. AKINS & SONS to sell, and A. M. AKINS to purchase an automobile freight line operated between Calistoga, Napa County, California, and Lower Lake, Lake County, California, and between Lower Lake, Lake County, California, and Stubbs Early Subdivision and intermediate points, including Clear Lake Highlands, Austin's Woodlands, Clear Lake Park and Sulphur Bank Quicksilver Mine, together with the territory two miles on either side of the County road traveled between the points named, all in said Lake County, and between Lower Lake, said Lake County, and Kelseyville and Lakeport, and intermediate points, said Lake County, California.

BY THE COMMISSION -

## OPINION and ORDER

A. M. Akins & Sons, a partnership composed of Alma M. Akins and Frank Akins, have petitioned the Railroad Commission for an order approving the sale and transfer by the partnership to Alma M. Akins of operating rights for an automotive service for the transportation of property between Calistoga and Lower Lake and between Lower Lake and Sulphur Bank Quicksilver Mine and intermediate points and between Lower Lake and Lakeport and certain intermediate points, and Alma M. Akins has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is the division of the properties of the co-partnership, by which Alma M. Akins receives the operating rights and equipment as his sole property, the partnership having been dissolved. Frank Akins receives property of non-utility character.

The operating rights herein proposed to be transferred originated by operations conducted prior to Chapter 317 of the Acts of 1917, as amended, confirmed by tariffs filed by A.M.Akins March 1, 1917, for the operation of an automotive service for the transportation of property between Calistoga and Lower Lake. No intermediate points were named in this tariff.

By Decision No.14511, on Application No.10733, dated

January 50, 1925, A. M. Akins & Sons were authorized to establish

property service "between Lower Lake and Subs Early Subdivision

and intermediate points including Clear Lake Highlands, Austin's

Woodlands, Clear Lake Park and Sulphur Bank Quicksilver Mine,

together with the territory two miles on either side of the

County road traveled between the points named herein."

By Decision No.20384, on Application No.14879, dated
October 24, 1928, A.M. Akins & Sons were granted certificate
"for the transportation of freight between Lower Lake and Kelseyville and Lakeport and intermediate points, said service to be an extension of and consolidated with their existing operative rights

between Calistoga and Lower Lake and Lower Lake and Subs Early Subdivision."

while it appears from the record cited that the original right was established by A.M. Akins, an individual, and subsequent rights were granted to A.M.Akins & Sons, a co-partnership, the present application cures any technical differences of ownership by establishing all the existing rights in A.M. Akins individually carrying out the purpose intended by Decision No.20384 on Application No.14879.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

A.M. Akins is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they

-2-

extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

- 1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
- 2- Applicants A.M.Akins & Son shall immediately unite with applicant A.M.Akins in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants A.M.Akins & Sons on the one hand withdrawing, and applicant A.M. Akins on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicants A.M. Akins & Sons shall immediately withdraw time schedules filed in their name with the Railroad Commission, and applicant A.M. Akins shall immediately file, in duplicate, in his name time schedules covering service heretofore given by applicants A.M. Akins & Sons, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants A.M. Akins & Sons, or time schedules satisfactory to the Railroad Commission.
- 4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- 5- No vehicle may be operated by applicant A.M. Akins unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 24th day of July 1931.

Fred & Clerknot